IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5932 of 2002

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

STATE OF GUJARAT

Versus

LILAVATI RAMJI GOR

Appearance:

1. Special Civil Application No. 5932 of 2002

MR PD BHATE, AGP for Petitioner No. 1

MR MUKESH H RATHOD for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 13/08/2004

ORAL JUDGEMENT

1. By filing this petition, the State Government has challenged the judgment and award of the Labour Court,

Bharuch in Reference being Reference (LCB) No.171 of 1996 whereby the order of retrenchment is quashed and set aside and consequently the respondent workman was reinstated to the original post with continuity of service. The Labour Court has also granted 100% back wages in favour of the respondent workman.

2. Mr.Bhate, learned AGP submitted that in pursuance of the order of the Labour Court, the respondent workman was reinstated to the original post, but since the work was not available, the respondent workman was given the seasonal work as and when it was available. Considering the facts of the case in hand, in my view, the particular division, i.e. Range Forest Officer, D.P.A.P. Range, Nalia, Taluka Lakhpat will maintain the seniority list as required under the provisions of Section 25-G of the Industrial Disputes Act, 1947 and will provide the work to the respondent workman as per her seniority as and when the work is available.

3. So far as back wages are concerned, the Labour Court has granted 100% back wages and it is not clear as to on what basis, the salary of the respondent workman should be counted. It is made clear that since the respondent workman has worked for 240 days, on the basis of 20 days per month, she should be paid Rs.400/- per month from the date of relieving her from 1.9.1988 till the order of the Labour Court dated 30.8.1989. The said amount will paid to the respondent workman from the date of the award of the Labour Court till the actual reinstatement. The respondent workman will be paid the aforesaid amount within three months from the date of receipt of the writ of this order. Accordingly, the award of the Labour Court is modified to the aforesaid extent.

4. In the result, this petition is partly allowed and the award of the Labour Court is modified to the extent that the respondent-workman will be reinstated with continuity of service and will be paid Rs.400/- per month (Rs.20/- per day for 20 days) from the date of retrenchment till the reinstatement. Rule is made absolute to the aforesaid extent with no order as to costs.

(K.S.Jhaveri,J)
(pathan)